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2  
3 UNITED STATES DISTRICT COURT  
4 EASTERN DISTRICT OF WASHINGTON  
5

6 UNITED STATES OF AMERICA, )  
7 )  
8 Plaintiff, ) No. CR-13-033-JLQ  
9 vs. ) ORDER RE: MOTION TO  
10 JACK RAY LOVITT, ) VACATE PLEA  
11 Defendant. )

12 A hearing was held on Defendant's Motion to Vacate Guilty Plea (ECF No. 27)  
13 on June 27, 2013. Defendant was present, in custody, and represented by David Miller.  
14 Assistant United States Attorney Caitlin Baunsgard appeared for the Government. The  
15 basis of the Motion was Defendant's concern that he had been incorrectly advised as to  
16 his maximum possible sentencing exposure at the time of his plea of guilty.

17 The Plea Agreement (ECF No. 23) states that the maximum sentence is 10 years  
18 imprisonment, and that the court may "impose any sentence it deems appropriate up to  
19 the statutory maximums stated in this Agreement." (ECF No. 23, ¶ 2). The Government,  
20 in its response to the Motion, acknowledges that the parties did not consider whether  
21 Defendant could be an Armed Career Criminal. The Government stated that it "intends  
22 to stand by the terms outlined in the plea agreement." (ECF No. 30, p. 2). The  
23 Government stated at the hearing that it would not argue for a sentence exceeding 120  
24 months. With the agreement by the Government to stand by the agreement, the  
25 Defendant expressed a desire to proceed under the Plea Agreement.

26 Accordingly,  
27

1           **IT IS HEREBY ORDERED:**

2           1. Defendant's Motion to Vacate (ECF No.27) is **DENIED**. This matter remains  
3 set for sentencing **on Friday, July 12, 2013, at 2:00 p.m.**

4           **IT IS SO ORDERED.** The Clerk shall enter this Order and furnish copies to  
5 counsel and the United States Marshal.

6           Dated this 27<sup>th</sup> day of June, 2013.

7                               s/ Justin L. Quackenbush  
8                               JUSTIN L. QUACKENBUSH  
9                               SENIOR UNITED STATES DISTRICT JUDGE